

Chesapeake Bay Exception CBE-11-009: 7604 Uncle's Neck Road; River's Bend at Uncle's Neck

Staff report for the September 8, 2010 Chesapeake Bay Board Public Hearing

This staff report is prepared by the James City County Environmental Division to provide information to the Chesapeake Bay Board to assist them in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant: Karla Havens; Mid Atlantic Resource Consulting

Land Owner(s): Jeffrey Fisher
8740 Merry Oaks Lane
Toano, VA

Location: 7604 Uncle's Neck Road
Pin: 2030200026: Jeffrey Fisher, owner

Parcel Size/Zoning: 3.25 +/- acres, A1 Agricultural
Percent of Parcel in RPA: 14% (0.44 +/- acres)

Watershed: Chickahominy River (HUC Code JL 28)

Proposed Impacts

Disturbed Area: 10,000 square feet total disturbance
RPA Encroachment: Landward and Seaward 50 foot RPA Buffers

Brief Summary and Description of Activities

Ms. Karla Havens of Mid Atlantic Consulting, Inc. on behalf of Jeffrey Fisher has applied for an exception to the Chesapeake Bay Ordinance for the encroachment into the RPA buffer for the re-grading of an existing slope and the subsequent stabilization and re-planting associated with the installation of a 200' stone revetment.

The re-grading of the existing bank along with the construction of the revetment will create a total of approximately 10,000 square feet of RPA impacts in both the landward and seaward buffer areas. Additionally, the applicant also proposes to remove nineteen trees during the construction process.

The applicant has also proposed to install wire reinforced silt fence at the toe of bank and a turbidity curtain during construction to minimize any sediment run-off to off-site areas.

Additionally, if the associated Wetlands Case is denied by the Wetlands Board, this case should be deferred to a later date as the proposed plan would be insufficient as the scope of the work will have changed.

Staff Recommendation

Staff has fully reviewed the application and exception request, including the WQIA, and has determined impacts associated with the proposal to be High for the proposed construction and that the proposed mitigation measures may offset the impacts to the RPA. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions:

1. The applicant must obtain all other necessary local permits as required for the project.
2. All proposed mitigation plantings shall meet James City County Standards with all proposed shrubs being of three gallon size.
3. A pre-construction meeting shall be held on-site prior to commencing work.
4. Full implementation of the RPA Mitigation Plan submitted with the WQIA and any additional Board mitigation requirements shall be guaranteed through the provisions of the Ordinance contained in Sections 23-10(3) d. and 23-17(c) by providing a form of surety satisfactory to the County Attorney.
5. This exception request approval shall become null and void if construction has not begun by September 8 2011 or all improvements including the required mitigation plantings are not completed by that expiration date.
6. Written requests for an extension to an exception shall be submitted to the Environmental Division no later than 2 weeks prior to the expiration date.

Background

The lot was recorded following both the 1990 adoption and the subsequent 2004 revision of the Chesapeake Bay Preservation Ordinance. In this case, the exception request is for the re-grading and stabilization an existing bank which will encroach into both the 100' and 50' RPA buffers. Therefore in accordance with section 23-14 of the Ordinance, an exception must be processed by the Chesapeake Bay Board after a public hearing.

Staff Evaluation

Staff has evaluated the application and exception request for all work as described above. The proposal is for the re-grading and stabilization of an existing bank. Staff finds that the application has met the conditions in the Chesapeake Bay Preservation Ordinance, Sections 23-11 and 23-14, and that the application should be heard by the Board.

Water Quality Impact Assessment (WQIA)

In accordance with Bay Act requirements and the Ordinance all land disturbance, development or redevelopment within the RPA requires a water quality impact assessment (WQIA). Water quality impact assessments shall identify impacts of proposed development on water quality and land in RPAs and recommended measures for mitigation of these impacts. Localities must review a WQIA prior to action on the exception request.

A WQIA was provided on July 23, 2010. Based on staff review, the WQIA proposes to mitigate for RPA impacts by:

- Re-planting the RPA with 250 shrubs and the placement of 7,000 square feet of hardwood mulch over erosion control matting type two.

Due to the proposed 2:1 slope and the inherent danger that during storm events that any new planted trees could be felled and compromise the slope itself, it is not advisable to install canopy and understory trees. The applicant has proposed to plant 250 shrubs which meets the alternate mitigation requirements and is satisfactory to staff.

Consideration by the Chesapeake Bay Board

The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-11-009 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or granting denial of Chesapeake Bay Exception CBE-11-009 are included for the Board's use and decision.

Staff Report prepared by:

Michael P. Majdeski
Senior Environmental Inspector

CONCUR:

Scott J. Thomas
Secretary to the Board

Attachments: RPA Replanting Plan
Board Photos